

**UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION**

PJM Interconnection, L.L.C.) Docket No. ER12-718-00_

**PJM INTERCONNECTION, L.L.C. AND
NEW YORK INDEPENDENT SYSTEM OPERATOR, INC. PETITION
FOR LIMITED TARIFF WAIVER, SHORTENED COMMENT PERIOD,
AND EXPEDITED COMMISSION ACTION**

Pursuant to Rule 207(a)(5) of the Federal Energy Regulatory Commission (“Commission” or “FERC”) Rules of Practice and Procedure, 18 C.F.R. § 385.207(a)(5), PJM Interconnection, L.L.C. (“PJM”) and New York Independent System Operator, Inc. (“NYISO”) (collectively, the “RTOs”) respectfully request a temporary, limited waiver of sections 7 and 10 of Schedule D (*Market-to-Market Coordination Process*) to the Joint Operating Agreement Among and Between NYISO and PJM (“JOA”) and any other provisions of the JOA as may be necessary to permit the RTOs to temporarily suspend market-to-market coordination and settlement under the following two scenarios: (1) the data link between the RTOs fails precluding the exchange of data necessary to implement the market-to-market coordination process; or (2) either RTO’s energy management system (“EMS”)¹ or real-time security constrained economic dispatch (“RTD”), fails rendering impossible the creation of data necessary for market-to-market coordination.

The RTOs also respectfully request this limited waiver to be effective January 15, 2013, until June 30, 2013. During this period, the RTOs will develop and file with the

¹ The EMS includes real-time telemetry, contingency and state estimator functions.

Commission the JOA clarifications necessary to temporarily suspend market-to-market coordination and settlement in the two scenarios discussed herein.

I. PROCEDURAL BACKGROUND

On December 30, 2011, the RTOs submitted a joint filing to revise the JOA and NYISO Open Access Transmission Tariff (“OATT”) in response to the Commission’s December 30, 2010 order on rehearing and compliance² and the Commission’s July 1, 2011 order on rehearing³ requiring the implementation of a market-to-market coordination process to address certain interregional transactions in, and around, the Lake Erie region. On March 15, 2012, the Commission conditionally accepted the RTOs’ proposed JOA and NYISO OATT revisions subject to the RTOs submitting an additional compliance filing containing all remaining tariff revisions required to implement the market-to-market coordination process by May 1, 2012 (“March Order”).⁴

On May 1, 2012, the RTOs submitted a joint compliance filing proposing additional JOA revisions to satisfy the Commission’s directives in the March Order. The Commission issued an order in September conditionally accepting the RTOs’ proposed JOA and NYISO OATT revisions subject to the RTOs submitting an additional compliance filing by October 22, 2012.⁵ The RTOs submitted to the Commission the

² *New York Independent System Operator, Inc.*, 133 FERC ¶ 61,276 (2010).

³ *New York Independent System Operator, Inc.*, 136 FERC ¶ 61,011 (2011).

⁴ *New York Independent System Operator, Inc.*, 138 FERC ¶ 61,192 (2012).

⁵ *New York Independent System Operator, Inc.*, 140 FERC ¶ 61,205 (2012).

additional compliance filing on October 22, 2012. On December 12, 2012, the Commission issued a letter order accepting the RTOs' October 22, 2012 filing.⁶

II. FACTS

Under section 7 and 10 of Schedule D of the JOA, the RTOs are required to initiate market-to-market in certain scenarios unless a qualifying exception in section 10 applies. Specifically, the RTOs will initiate the market-to-market process where a market-to-market flowgate that is under the operational control of either NYISO or PJM and that is eligible for redispatch coordination, becomes binding in the Monitoring RTOs⁷ RTD⁸ and there are no qualifying exceptions that would allow for suspension of such process.⁹

The EMS, RTD, and data link are critical to implement this market-to-market coordination process. When a market-to-market redispatch coordination flowgate binds in the Monitoring RTO's RTD, the Monitoring RTO will notify the Non-Monitoring RTO of the transmission constraint and will identify the market-to-market flowgate that may benefit from redispatch assistance. Importantly, the Monitoring and Non-Monitoring RTOs will each provide to each other via a data link, among other data, the economic value of the market-to-market constraint (i.e., the Shadow Price) as calculated by their respective RTDs, including the EMS, and the RTD of the Non-Monitoring RTO will include the market-to-market flowgate constraint. The Monitoring RTO will

⁶ *New York Independent System Operator, Inc.*, Docket No. ER12-718-002 (unpublished letter order issued Dec. 12, 2012).

⁷ All capitalized terms that are not otherwise defined herein shall have the same meaning herein as they are defined in the JOA.

⁸ § 7 of Schedule D of the JOA.

⁹ See § 10 of Schedule D of the JOA (containing a list of qualified exceptions).

evaluate the actual loading of the market-to-market flowgate constraint and request that the Non-Monitoring RTO modify its Market Flow via redispatch if it can do so more efficiently than the Monitoring RTO. Using the data link and each RTO's EMS/RTD, this iterative process of evaluating both participants' Shadow Prices to relieve the active market-to-market process will continue until the RTOs Shadow Prices converge and an efficient redispatch solution is achieved.

While developing a joint operating guide to implement the market-to-market process and testing the exchange of market-to-market information between PJM and NYISO, the RTOs determined a procedure was necessary to suspend both the market-to-market process and settlements in the following two scenarios:

- 1) A failure of either RTO's EMS or RTD, which would prevent the calculation of data (e.g., transmission constraint data, and generator output data and distribution factors necessary to calculate market flows) necessary for market-to-market coordination; or
- 2) A failure of the data link between the RTOs, which would preclude the exchange of data, such as Shadow Prices, necessary to implement the market-to-market coordination process.

During the development of this emergency procedure, a question arose as to whether the JOA allows for suspension of the market-to-market process under either of these scenarios. Section 10.1.5 (*Appropriate use of M2M Process: Abnormal Operating Conditions*) in Schedule D of the JOA allows the RTOs to delay or suspend the market-to-market process where either PJM or NYISO are "experiencing system conditions that require the system operators' immediate attention." Here, "system conditions" clearly applies to bulk-electric system conditions (e.g., generation outages, transmission outages,

excessive loadings, etc.) that require the system operators' immediate attention. Arguably, but not definitively, section 10.1.5 also applies to data system conditions that require the system operators' immediate attention (e.g., an outage of the data link or EMS between the RTOs and EMS), which interpretation allows the RTOs to suspend market-to-market operations should the data link or either RTO's EMS systems fail. Because arguably the JOA may not allow for suspension of market-to-market coordination during an outage of the data link or EMS between the RTOs, out of an abundance of caution, PJM and NYISO seek a waiver of sections 7 and 10 in Schedule D of the JOA, and any other provisions of the JOA as may be necessary to effectuate the requested waiver, to permit PJM and NYISO to suspend temporarily market-to-market coordination and settlement for the two limited scenarios described above.

III. REQUEST FOR SHORTENED NOTICE PERIOD AND FOR COMMISSION ACTION BY JANUARY 14, 2013

The RTOs respectfully request that the Commission grant this temporary waiver request by no later than January 14, 2013. To meet this expedited schedule, PJM respectfully requests that the Commission immediately issue notice of PJM's waiver request and provide, in accordance with its Rule 210(b),¹⁰ for a shortened comment period of seven days. Expedited action is necessary because effective January 15, 2013, in the absence of the requested waiver, the RTOs will be required under the JOA to conduct market-to-market coordination during emergency data system outages where such outages preclude the creation and exchange of data necessary to implement market-to-market coordination.

¹⁰ 18 C.F.R. § 385.210(b).

IV. THE REQUESTED WAIVER CONFORMS TO THE COMMISSION'S APPLICABLE CRITERIA AND IS IN THE PUBLIC INTEREST

The RTOs request waiver of sections 7 and 10 in Schedule D to the JOA. “The Commission has previously granted Independent System Operators and Regional Transmission Organizations limited waivers of their own tariff provisions when: (1) the underlying error was made in good faith; (2) the waiver is of limited scope; (3) a concrete problem needed to be remedied; and (4) the waiver did not have undesirable consequences, such as harming third parties.”¹¹ PJM and NYISO’s waiver request meets each of these criteria.

A. *Good Faith*

PJM and NYISO acted in good faith to develop and include in the JOA a market-to-market process that contained all scenarios in which the RTOs must suspend market-to-market operations. However, as described above, the RTOs did not consider including explicit authority to suspend market-to-market coordination for the two emergency scenarios described above until the parties were creating the more detailed operating guide and testing the data links and market-to-market systems.

B. *The Requested Temporary Waiver is Limited in Scope*

The RTOs requested temporary waiver is limited in scope. First, the waiver applies to the finite period of January 15, 2013, which is the effective date of the waiver,

¹¹ *New York Independent System Operator, Inc.*, 139 FERC ¶ 61,108, at P14 (2012). *See also, e.g., PJM Interconnection, LLC*, 137 FERC ¶ 61,184, at P 13 (2011); *PJM Interconnection, LLC*, 137 FERC ¶ 61,109, at P 11 (2011); *PJM Interconnection, LLC*, 135 FERC ¶ 61,069, at P 8 (2011); *ISO-New England, Inc.*, 134 FERC ¶ 61,182, at P 8 (2011); *California Independent System Operator Corp.*, 132 FERC ¶ 61,004, at P 10 (2010); *Hudson Transmission Partners*, 131 FERC ¶ 61,157, at P 10 (2010); *Pittsfield Generating Co., L.P.*, 130 FERC ¶ 61,182, at P 9-10 (2010); *ISO New England Inc. - EnerNOC*, 122 FERC ¶ 61,297 (2008); *Central Vermont Public Service Corp.*, 121 FERC ¶ 61,225 (2007); *Waterbury Generation LLC*, 120 FERC ¶ 61,007 (2007); *Acushnet Co.*, 122 FERC ¶ 61,045 (2008).

through June 30, 2013, which is the anticipated date by when the RTOs can to develop the revised tariff language, obtain approval from the NYISO stakeholders, submit to the Commission the clarified JOA language, and obtain the Commission's approval. Second, the waiver applies to two only the two emergency scenarios described above (i.e., an outage of the data link between the RTOs or either RTO's EMS system). Third, the waiver applies to only two sections (i.e., section 7 and 10) in one schedule (i.e., Schedule D) of the JOA.

C. The Temporary Waiver Will Remedy a Concrete Problem

The requested temporary waiver will remedy a concrete problem. Based on joint testing conducted by PJM and NYISO, there is a high probability that, in the initial months following the implementation of market-to-market operations, the data link between the RTOs will fail. The RTOs anticipate that such failures will be infrequent and of short-duration. Under the JOA, the RTOs arguably will not have a remedy for emergency data system outages necessary to conduct market-to-market operations from January 15, 2013 (the effective date for market-to-market operations between PJM and NYISO) to June 30, 2013 (the date by when the RTOs anticipate obtaining all necessary approvals of the revised JOA language).¹² Granting the waiver will provide the remedy for the limited time necessary to revise the JOA and obtain the Commission's approval of the RTOs' proposed revisions.

¹² The JOA is an attachment to the NYISO Tariff. Therefore, NYISO must obtain stakeholder authorization as a precondition to filing any section 205 revisions to its Tariff including the JOA. NYISO anticipates completing the stakeholder review process and obtaining 205 filing authorization in May 2013.

D. Granting the Temporary Waiver Will Not Harm Third Parties

PJM and NYISO are requesting the waiver to address the oversight of failing to include an explicit exception for these emergency data failure scenarios described above. Regardless of whether the Commission grants the waiver, if either of the emergency scenarios discussed in this filing occur, the RTOs will not be able to conduct market-to-market operations and settlement. Rather, each RTO would individually dispatch its system, as is the case today, as opposed to operating the more efficient jointly dispatched system. Therefore, the Commission's granting of the waiver will not impact third parties because, regardless of the waiver, market-to-market coordination cannot be effectuated without the data provided by the data link and EMS system.

Moreover, this waiver will avoid the possibility of unintentional violations of the JOA and, therefore, provide regulatory efficiencies by avoiding the compliance enforcement consequences in the event the RTOs are required to suspend market-to-market coordination when the data link between the RTOs fail.

V. CORRESPONDENCE AND COMMUNICATIONS

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VI. CONCLUSION

For the reasons stated above, PJM and NYISO request that the Commission grant this request for an expedited, temporary waiver of the relevant provisions of the JOA to suspend market-to-market coordination during the data system outages described above pending and subject to the Commission's final order on the clarifying revisions filing that the RTOs will submit by June 30, 2013. PJM further requests that the Commission provide for a shortened comment period and rule on this request on or before January 14, 2013.

Respectfully submitted,

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Dated: December 24, 2012

CERTIFICATE OF SERVICE

I hereby certify that I this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Norristown, PA this 24th day of December 2012.



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